

RKUNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIAStuart Branch

(In the space above enter the full name(s) of the plaintiff(s).)

- against -

Bernadette NicholasKatharine NicholasRichard BrennerMichael P McKenna**12 355**
COMPLAINTJury Trial: ☐ Yes ☒ No

(check one)

FILED

JAN 27 2012

MICHAEL E. KUNZ, Clerk
By _____ Dep. Clerk

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

Street Address

County, City

State & Zip Code

Telephone Number

Stuart Branch6554 Lansdowne AvePhiladelphiaPA 19151267-234-4998

- B. List all defendants. You should state the full name of the defendants, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant can be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name Bernadette Nicholas
 Street Address 105 Camelot Lane
 County, City Newton
 State & Zip Code PA 19073

Defendant No. 2

Name Katharine Nicholas
 Street Address 105 Camelot Lane
 County, City Newton
 State & Zip Code PA 19073

Defendant No. 3

Name Richard Brenner
 Street Address 164 Bradford Court
 County, City MT. Laurel
 State & Zip Code NJ 08054

Defendant No. 4

Name Michael P McKenna
 Street Address 164 Bradford Court
 County, City MT. Laurel
 State & Zip Code NJ 08054

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

- A. What is the basis for federal court jurisdiction? (check all that apply)

☐ Federal Questions ☐ Diversity of Citizenship

- B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? _____

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? 616 N 67th St
Phila PA 19151, 6554 Lansdowne Ave Phila PA 19151

B. What date and approximate time did the events giving rise to your claim(s) occur? _____
10/2009 12-23-2009 2-23-2010 to 5-2011

C. Facts: I signed into an agreement with Mr.
Richard Brenner and Mr. Michael P. McKenna
to purchase a house at 6554 Lansdowne Ave
Phila PA 19151, I was asked to pay (deposit -
\$3,450) all given to Mrs. Brenadette Nicholas a
Mortgage Broker for Mr. Brenner and Mr. McKenna
it was also understood that I would rent the
property for \$800 a month until financing was in
place.

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

I want the court to have Mrs. Bernadette
Nicholas and Mr. Richard Brenner, Mr. Michael
McKenna to return \$3450⁰⁰ to me as well
as \$1700⁰⁰ for items loss because of flood
in the back of the house into the house
from plumbing that Mr. Brenner would not
have repaired for over a year
Total I am asking for is \$5150⁰⁰

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 20 day of Januray, 20 12.

Signature of Plaintiff Stuart Branch
Mailing Address 6554 Lansdowne Ave
Phila PA 19151
Telephone Number 267-234-4998
Fax Number (if you have one) _____
E-mail Address bstu85@yahoo.com

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the Clerk's Office of the United States District Court for the Eastern District of Pennsylvania.

Signature of Plaintiff: _____
Inmate Number _____

ABRAMSON & DENENBERG, P.C.
BY: DAVID H. DENENBERG, ESQUIRE
IDENTIFICATION NUMBER: 51085
1315 WALNUT STREET, 12TH FLOOR
PHILADELPHIA, PA 19107
215-546-1345

ATTORNEY FOR PLAINTIFFS

| | | |
|-------------------------|---|-----------------------|
| STEWART BRANCH | : | COURT OF COMMON PLEAS |
| 6554 LANSDOWNE AVENUE | : | |
| PHILADELPHIA, PA. 19151 | : | |
| AND | : | PHILADELPHIA COUNTY |
| LISA BRANCH | : | |
| 6554 LANSDOWNE AVENUE | : | |
| PHILADELPHIA, PA. 19151 | : | |
| | : | |
| VS. | : | |
| | : | |
| | : | |
| RICHARD BRENNER | : | OCTOBER TERM, 2011 |
| 164 BRADFORD COURT | : | |
| MT. LAUREL, N.J. 08054 | : | |
| AND | : | |
| MICHAEL P. MCKENNA | : | |
| 164 BRADFORD COURT | : | |
| MT. LAUREL, N.J. 08054 | : | |
| AND | : | |
| BERNADETTE NICHOLAS | : | |
| 105 CAMELOT LANE | : | |
| NEWTOWN, PA. 19073 | : | NO. |

CIVIL ACTION - COMPLAINT
1C - BREACH OF CONTRACT

1. Plaintiff, Stewart Branch, is an individual and citizen of the Commonwealth of Pennsylvania, residing as captioned.
2. Plaintiff, Lisa Branch, is an individual and citizen of the Commonwealth of Pennsylvania, residing as captioned.
3. Defendant, Richard Brenner, is an individual and citizen of the State of New Jersey, residing as captioned.

4. Defendant, Michael P. McKenna, is an individual and citizen of the State of New Jersey, residing as captioned.

5. Defendant, Bernadette Nicholas, is an individual and citizen of the Commonwealth of Pennsylvania, residing as captioned

6. On or about February 23, 2010, defendants, Richard Brenner and Michael P. McKenna, purchased the real property located at 6554 Lansdowne Avenue, Phila., Pa. (See Plaintiffs' Exhibit "A").

7. On or about October, 2009, defendant, Bernadette Nicholas, was the agent for co-defendants, Richard Brenner and Michael P. McKenna.

8. On or about October, 2009, defendant, Bernadette Nicholas, was a licensed real estate agent and mortgage broker in the State of Pennsylvania.

9. On December 23, 2009, defendant, Bernadette Nicholas on behalf of the defendants, Richard Brenner and Michael P. McKenna, obtained a deposit of \$2,000.00 from the plaintiffs, Stewart Branch and Lisa Branch. (See Plaintiffs' Exhibit "B").

10. The deposit of \$2,000.00 was to be used for the purchase of 6554 Lansdowne Avenue, Phila., Pa. by Richard Brenner and Michael P. McKenna.

11. At the time of closing the defendants, Richard Brenner and Michael P. McKenna borrowed \$98,300.00 to purchase the property located at 6554 Lansdowne Avenue, Phila., Pa. (See Plaintiffs' Exhibit "C").

12. On February 23, 2010, plaintiffs deposited an additional \$1,000.00 toward the purchase of defendants' property at 6554 Lansdowne Avenue, Phila, Pa.

13. On April 2, 2010, defendants, Richard Brenner and Michael P. McKenna borrowed an additional \$62,500.00 from Scott Financial Company. (See Plaintiffs' Exhibit "D").

14. On June 22, 2010 the defendants, Richard Brenner and Michael P. McKenna, again refinanced the property borrowing \$145,000.00 from Commercial Mortgage for 6554 Lansdowne Avenue, Phila., Pa. (See Plaintiffs' Exhibit "E").

15. Defendant, Bernadette Nicholas, requested an additional \$450.00 to perform an appraisal on behalf of the defendants. (See Plaintiffs' Exhibit "F").

16. Plaintiff, Stewart Branch, produced pay stubs and proof of income and submitted a loan application to Bernadette Nicholas.

17. On or about February 23, 2010, plaintiffs signed a Lease Agreement at the request of defendant, Bernadette Nicholas and on behalf of defendants, Richard Brenner and Michael P. McKenna.

18. Plaintiffs lease agreement Paragraph 3 states, "It is hereby agreed and understood that landlord will sell to tenant the property as soon as their financing is in place." (See Plaintiffs' Exhibit "G").

19. Plaintiffs deposited a total of \$3,450.00 and never received any documentation from defendant, Bernadette Nicholas, the agent for co-defendants, Richard Brenner and Michael P. McKenna.

COUNT I
STEWART BRANCH AND LISA BRANCH VS. RICHARD BRENNER,
MICHAEL P. MCKENNA AND BERNADETTE NICHOLAS
FRAUD

20. Paragraphs 1 through 20 are incorporated herein as fully as though each were set forth herein at length.

21. Defendants, Richard Brenner and Michael P. McKenna, conspired with the defendant, Bernadette Nicholas, to take monies from the plaintiffs for the purchase of 6554 Lansdowne Avenue, Phila., Pa.

22. Defendant, Bernadette Nicholas, never processed any loan documentation on behalf of the plaintiffs, nor did defendant obtain an appraisal for the property at 6554 Lansdowne Avenue, Phila., Pa.

23. Defendants conspired to defraud plaintiffs of the deposit monies with no intent to assist plaintiffs in obtaining a mortgage to purchase 6554 Lansdowne Ave., Phila., Pa.

24. Plaintiffs relied upon the defendants' representation to their great detriment and loss.

25. Plaintiffs relied upon the defendant, Bernadette Nicholas, agent for co-defendants to process the loan application so as to secure a mortgage on plaintiffs' behalf.

26. Plaintiffs suffered a monetary loss of \$3,450.00.

27. Plaintiffs requested the return of their deposit, but no monies have been forthcoming.

28. Plaintiffs had hired the law offices of Abramson & Denenberg, P.C. and expended an additional \$5,000.00 to plaintiffs' great detriment and loss.

29. Defendants, Richard Brenner and Michael P. McKenna had no intention of selling plaintiffs the property at 6554 Lansdowne Avenue, Phila., Pa., as they borrowed more money than what the property was worth.

30. Plaintiffs have an equitable interest in the real estate located at 6554 Lansdowne Avenue, Phila., Pa. as they have a written agreement to purchase the premises.

31. At all times pertinent hereto, defendants committed acts of fraud and misconduct as more fully set forth below.

32. Defendants intentionally, willfully and wrongfully kept plaintiffs monies and failed to turn over the deposit monies, even when they were made aware of co-defendant conduct of not processing plaintiffs' mortgage application and loan documents.

33. All defendants' converted plaintiffs' monies to plaintiffs great detriment and loss.

34. Plaintiffs are entitled to payment of attorney's fees as a result of defendants' wrongful action.

35. Defendants acted in concert with a common purpose to defraud plaintiffs and agreed to aid each other in a scheme to abscond with plaintiffs monies.

36. Defendants conduct was unlawful, fraudulent, deceptive and intended to deprive plaintiffs of the purchase of 6554 Lansdowne, Avenue, Phila., Pa.

WHEREFORE, plaintiffs request Your Honorable Court to enter judgment in an amount not in excess of Fifty Thousand (\$50,000.00) Dollars, plus interest, attorney's fees and costs.

COUNT II
STEWART BRANCH AND LISA BRANCH VS. RICHARD BRENNER,
MICHAEL P. MCKENNA AND BERNADETTE NICHOLAS
UNFAIR TRADE PRACTICES ACT AND
CONSUMER PROTECTION LAW

37. Paragraphs 1 through 36 are incorporated herein as fully as though each were set forth herein at length.

38. Defendants misconduct throughout this transaction is outrageous and unacceptable and fall beyond the bounds of acceptable business conduct and violates the Unfair Trade Practices and Consumer Protection Law.

39. The premises were the residence of the plaintiffs and thus this transaction constitutes a sale governed by the Unfair Trade Practices and Consumer Protection Law.

40. Defendants conduct in perpetrating the fraud constitutes a violation of the Unfair Trade Practices and Consumer Protection Law.

41. Plaintiffs at all times relevant hereto were consumers under the protection of the Unfair Trade Practices and Consumer Protection Law.

42. Plaintiffs are entitled to reasonable attorney's fees and costs under the Unfair Trade Practices and Consumer Protection Law.

43. Defendants advertised goods and services with no intent to sell them as advertised.

44. Under the Consumer Protection Law plaintiffs are entitled to actual damages, treble damages, fees, costs and interest on the monies deposited to purchase 6554 Lansdowne Avenue, Phila., Pa.

WHEREFORE, plaintiffs pray this Honorable Court to enter judgment in an amount not in excess of Fifty Thousand (\$50,000.00) Dollars.

COUNT III
STEWART BRANCH AND LISA BRANCH VS. RICHARD BRENNER,
MICHAEL P. MCKENNA AND BERNADETTE NICHOLAS
BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING

45. Paragraphs 1 through 44 are incorporated herein as fully as though each were set forth herein at length.

46. Implied in every contract in Pennsylvania is a covenant of good faith and fair dealing.

47. Defendants breached their covenant of good faith and fair dealing in being deceptive and conspiring together in concert to abscond with plaintiffs deposit for the purchase of 6554 Lansdowne Avenue, Phila., Pa.

WHEREFORE, plaintiffs pray this Honorable Court to enter judgment in an amount not in excess of Fifty Thousand (\$50,000.00) Dollars.

ABRAMSON & DENENBERG, P.C.

BY: 
DAVID H. DENENBERG, ESQ.
ATTORNEY FOR PLAINTIFFS